

IN RE:
MILAGROS FONSECA SOLA

CASE NO. 11-07162-BKT

CHAPTER 13

DEBTOR (S)

**AMENDED TRUSTEE'S UNFAVORABLE REPORT
ON PROPOSED POST CONFIRMATION PLAN MODIFICATION**

TO THE HONORABLE COURT: NOW COMES, José R. Carrión, Chapter 13 Trustee, and very respectfully alleges and prays:

This is the Trustee's position regarding the request, under **11 U.S.C. §1329**, for the confirmation of a Chapter 13 Plan.

Debtor(s)' Income: **Above Median / 60 months commitment period.** Gen Unsecured Pool: **\$0.00**

The **LIQUIDATION VALUE** of the estate has been determined in **\$0 R2016 STM. \$3,000.00**

TOTAL ATTORNEYS FEES THRU PLAN: \$2,904.00 Fees paid: \$2,904.00 Fees Outstanding: \$0.00
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With respect to the proposed (amended) Plan dated: **4/14/2015** (Dkt 82). Plan Base: **\$17,520.00**

The proposed (amended) plan can not be confirmed because it has the following deficiencies:

- Feasibility [§1325(a)(6)]- In order to Trustee properly evaluate the proposed plan Debtor (s) must submit evidence of current Pension income. This information is necessary to verify debtor's capacity to make plan payment .

- Feasibility [§1325(a)(6)]: Default in payments to Trustee.- As of this date, arrears under proposed plan total the amount of \$280.00 (1 month). Next payment is due in May 25, 2015. Debtors must show by definite and credible evidence that they can comply with payments as proposed.

- Feasibility [§1325(a)(6)]: There is/are no allowed claim(s) for creditor(s) dealt in the plan [FRBP RULE 3021]- POPULAR AUTO, creditor provided for in the plan, is yet to file its proof of claim for post-petition arrears . Said creditor will not participate from the disbursements regarding said arrears until it files its claim . The sufficiency of the plan depends of the outcome of said claim . Still pending Motion to Dismiss filed by Popular Auto dkt.82.

- Unreasonable Expenses; Unwarranted payroll Deductions; Fails to use Income Tax refunds and Others . [§1322(a)(1)] - Debtor(s) submitted evidence of Tax Return filing for the year 2012 and 2013 . The Debtor(s) received a total amount of \$1,525.00 as Tax Refunds (2012 \$212.00 and 2013 \$1,313.00). Debtor has failed to use the 2013 Income Tax Refund to fund the plan . Debtor(s) s' tax refunds are generally considered projected disposable income that should fund the plan . See In re Michaud, 399 B.R. 365, 372-73. Debtor must bring to fund the plan the tax refund 2014 \$1,095.00 as soon as received.

Trustee objects the additional compensation for legal fees requested by debtor' (s'') counsel.- // Trustee hereby objects additional attorney's fees for \$350.00 until above matters are solve.

- Other/Comments- // The Trustee files this report in compliance with Court Order entered on Docket no . 92 and hereby requests that the same be deemed as complied.

Due to the above described deficiencies in the proposed plan the Trustee Objects to the Confirmation of the same .

CERTIFICATE OF SERVICE: The Chapter 13 Trustee herewith certifies that a copy of this motion has been served via first class mail on the same date it is filed to: the DEBTOR(s), and to her/his/their attorney through CM-ECF notification system .

In San Juan, Puerto Rico this May 22, 2015.

/s/ Jose R. Carrion

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